

**EXHIBIT K**

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**ENDORSED  
 FILED  
 ALAMEDA COUNTY**

JAN 4 5 2008

**CLERK OF THE SUPERIOR COURT**  
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 Deputy

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Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 COUNTY OF ALAMEDA

CLAUDE BRYANT, JOSEPH BIERNACKI,  
 GORDON FARMER, RHEALYN  
 HOLLAND, JAMES STICKLE, ELEANOR  
 RIGGIO, FRANK ACUNA, RICHARD  
 LAMASTERS, KENNETH ALLEN, CRAIG  
 FULCHER, SANFORD LEVINE and  
 THOMAS THOMPSON, on behalf of  
 themselves and all other employees and former  
 employees similarly situated,

Plaintiffs,

v.

SERVICE CORPORATION  
 INTERNATIONAL, SCI FUNERAL AND  
 CEMETERY PURCHASING  
 COOPERATIVE, INC., SCI EASTERN  
 MARKET SUPPORT CENTER, L.P., SCI  
 WESTERN MARKET SUPPORT CENTER,  
 L.P. a/k/a SCI WESTERN MARKET  
 SUPPORT CENTER, INC., SCI HOUSTON  
 MARKET SUPPORT CENTER, L.P., JANE  
 D. JONES, GWEN PETTEWAY, THOMAS  
 RYAN, and CURTIS BRIGGS,

Defendants.

Case No. RG 07359593

**CLASS ACTION**

**AMENDED COMPLAINT**

- (1) VIOLATION OF CALIFORNIA  
LABOR LAWS
- (2) STATE WAGE AND HOUR  
LAWS
- (3) UNJUST ENRICHMENT/  
RESTITUTION
- (4) CONVERSION
- (5) FRAUD AND DECEIT
- (6) MISREPRESENTATION
- (7) BREACH OF CONTRACT
- (8) BREACH OF IMPLIED  
COVENANT OF GOOD FAITH  
AND FAIR DEALING
- (9) QUANTUM MERUIT
- (10) UNLAWFUL BUSINESS  
PRACTICES

**DEMAND FOR JURY TRIAL**

AMENDED COMPLAINT-CLASS ACTION

*Bryant et al v. Service Corp. Int'l. et al - Case No. RG 07359593*

1  
2 Additional Attorneys for Plaintiffs, who will  
3 submit applications for admission *pro hac vice*:

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AMENDED COMPLAINT-CLASS ACTION

*Bryant et al v. Service Corp. Int'l. et al* - Case No. RG 07359593

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**CLASS ACTION COMPLAINT**

AND NOW come plaintiffs, on behalf of themselves and all others similarly situated, by and through their attorneys, Rosen, Bien & Galvan, LLP, Dolin, Thomas & Solomon LLP and Margolis Edelstein, and file the following Class Action Complaint:

**I. INTRODUCTION AND PROCEDURAL HISTORY**

1. This is a proceeding for declaratory and injunctive relief and monetary damages to redress the deprivation of rights secured to plaintiffs individually, as well as all other employees similarly situated, under the laws of California and other laws of the various States in which defendants do business.

2. On December 12, 2006, Service Corporation International ("SCI"), a named defendant in this action, was named in a complaint filed in the Western District of Pennsylvania. That complaint also named Alderwoods Group, Inc. ("Alderwoods") as a defendant in that action.

3. Prior to the filing of the Pennsylvania complaint, SCI had acquired Alderwoods and Alderwoods had become SCI's wholly-owned subsidiary. After the merger, SCI continued to operate the vast majority of both its own funeral homes and those of Alderwoods.

4. The Pennsylvania complaint was filed as a class and collective action alleging, *inter alia*, that employees who worked at defendants' funeral home locations were not properly paid for all the time they worked for defendants. It asserted violations of both the Fair Labor Standards Act ("FLSA") and state wage and hour laws.

5. The employees (whether they worked only at an Alderwoods location that became an SCI location, or at any other SCI location) shared a number of factual similarities: they suffered similar pay violations; SCI and/or its agents were their joint employers; SCI was liable for the violations of the entities it had acquired.

6. Because of the overlapping legal liability of defendants, as well as the overlapping factual issues in the matter, plaintiffs believed it was legally appropriate and in the interests of judicial efficiency for defendants to be named in a common action.

7. The Court in the Western District of Pennsylvania conditionally certified an

1 FLSA class of employees and directed that notice be sent to those individuals who worked at  
2 an Alderwoods location.

3 8. In response to that notice, hundreds of current and former employees opted-in to  
4 the Pennsylvania action.

5 9. On or about June 8, 2007, the Court in the Western District of Pennsylvania  
6 declined to exercise supplemental jurisdiction over any of the state law claims alleged in that  
7 action. Therefore, on or about July 9, 2007, the employees of SCI and Alderwoods reasserted  
8 their state law claims in a Class Action Complaint filed in the Superior Court of the State of  
9 California for the County of Alameda, Case No. RG 07334643 (the "Combined State Law  
10 Action").

11 10. Subsequently, the Court in the Western District of Pennsylvania determined it  
12 would only hear claims on behalf of employees who worked only for Alderwoods, and that  
13 claims of employees who had worked only at other SCI locations should be heard in a separate  
14 action.

15 11. Therefore, based on defendants' position that resulted in that ruling, the  
16 Combined State Law Action was voluntarily dismissed so that the state law claims of the  
17 employees who worked at locations managed by Alderwoods could be heard separately from  
18 those who worked at other SCI locations.

19 12. In the instant action, employees who worked at funeral locations owned and  
20 managed by SCI and its subsidiaries and affiliates assert violations of various state laws based  
21 upon defendants' failure to pay employees their regular or statutorily required rate of pay for  
22 all hours worked.

23 13. The plaintiffs in this lawsuit include employees who worked at all SCI funeral  
24 locations, including those employed at Alderwoods locations after the time SCI and its  
25 subsidiaries and affiliates assumed management of those locations.

## 26 **II. JURISDICTION AND VENUE**

27 14. This Court has jurisdiction over defendants because defendants conduct business  
28 in this State.

1           15. Venue is proper in this judicial district, pursuant to Code of Civil Procedure §  
2 395.5 and Corporations Code § 2105.

3           16. Upon information and belief, defendant Service Corporation International  
4 ("SCI") is a foreign corporation which has not obtained a certificate of qualification to do  
5 business in California.

6           17. Upon information and belief, defendant SCI Funeral and Cemetery Purchasing  
7 Cooperative, Inc. is a foreign corporation which has not obtained a certificate of qualification  
8 to do business in California.

9           18. Venue is also proper in this judicial district because defendants maintain and  
10 operate one or more business locations, transact business, and/or have agents in Alameda  
11 County, as well as in other counties in the State of California, and are otherwise within this  
12 Court's jurisdiction for purposes of service of process. Obligations and/or liabilities of the  
13 defendants arose in this County because defendants have contracted to employ or have  
14 employed plaintiffs in Alameda County, as well as in other counties in the State of California.  
15 Some of the claims in this matter arose from contracts for employment which were to be  
16 performed, at least in part, in Alameda County, as well as in other counties in the State of  
17 California. Some of the unlawful acts alleged herein occurred in Alameda County, as well as  
18 in other counties in the State of California, and have a direct effect on plaintiffs within  
19 Alameda County and within the State of California.

### 20 **III. PARTIES**

#### 21 **A. Plaintiffs**

22           19. The class members ("Class Members") are those employees and former  
23 employees of defendants who were suffered or permitted to work by defendants and not paid  
24 their regular or statutorily required rate of pay for all hours worked. As more fully set forth in  
25 the foregoing paragraphs, which Class Members incorporate by reference as if fully set forth  
26 herein, Class Members' claims are connected to Alameda County as some of those claims  
27 arose from contracts to be performed in Alameda County, some of the unlawful acts alleged  
28

1 herein occurred in Alameda County, and some of those acts have a direct effect on Class  
2 Members within Alameda County.

3 **B. Defendants**

4 20. Defendants SCI, SCI Funeral and Cemetery Purchasing Cooperative, Inc. (the  
5 "SCI Cooperative"), SCI Western Market Support Center, L.P. a/k/a SCI Western Market  
6 Support Center, Inc. ("SCI Western"), SCI Eastern Market Support Center, L.P. ("SCI  
7 Eastern"), and SCI Houston Market Support Center, L.P. ("SCI Houston") (collectively, SCI  
8 Western, SCI Eastern and SCI Houston are referred to as the "SCI Support Centers"), are  
9 enterprises engaged in interstate commerce with an annual gross volume of sales not less than  
10 \$500,000.

11 *The SCI Support Centers Are Liable to Class Members*

12 21. SCI Western is a limited partnership or corporation which is owned, directly or  
13 indirectly, by SCI.

14 22. SCI Eastern is a limited partnership which is owned, directly or indirectly, by  
15 SCI.

16 23. SCI Houston is a limited partnership which is owned, directly or indirectly, by  
17 SCI.

18 24. The primary functions of the SCI Support Centers are to help facilitate the  
19 execution of corporate strategies, coordinate communications between the field and corporate  
20 offices, and serve as liaisons for the implementation of policies and procedures.

21 25. The SCI Support Centers provide day-to-day human resources services and  
22 support for individual locations, including all executive, management, administrative,  
23 accounting, data processing, and human resources services for defendants' locations.

24 26. On-site training at funeral homes and cemeteries is provided by field personnel  
25 and training departments affiliated with the SCI Support Centers.

26 27. Each SCI Support Center has an ownership interest in the SCI Cooperative and  
27 together the SCI Support Centers collectively own a majority of the SCI Cooperative.  
28



1           28.    The SCI Support Centers, through their controlling interest in the SCI  
2 Cooperative, provide "Dignity University training programs" by which defendants ensure  
3 uniform services at their nationwide locations, publish and maintain the weekly newsletter  
4 "Frontline," and the "Global Village" intranet site, through which defendants communicate  
5 with their nationwide employees, and administer benefit plans for employees and contract with  
6 third-party benefit providers to respond to questions related to day-to-day benefits services.

7           29.    Additionally, the SCI Support Centers, through their controlling interest in the  
8 SCI Cooperative, maintain a payroll department and database which centralize information  
9 regarding Class Members, including employment records and payroll information.

10          30.    SCI and the entities it owns, directly or indirectly, including the SCI Support  
11 Centers, employ a single line management model in an effort to streamline the organization  
12 and ensure that operational efficiencies are achieved throughout the SCI network.

13          31.    The funeral home locations that SCI owns, directly or indirectly, are organized  
14 into various regions and within each region the funeral home locations share common  
15 resources including personnel, preparation services and vehicles.

16          32.    Upon information and belief, the SCI Support Centers, due in part to their role of  
17 providing all human resources services for defendants' locations, in concert with others, are  
18 actively involved in the creation of the illegal policies complained of in this case, including,  
19 but not limited to, the On Call Pay Policy, Community Work Policy, Training Compensation  
20 Policy, Pre-Needs Appointment Policy, Meal Break Deduction Policy, Pre-Approval for  
21 Overtime Pay Policy, Unrecorded Work Time Policy, and the policy regarding the calculation  
22 of Class Members' overtime.

23          33.    Upon information and belief, the SCI Support Centers, due in part to their role of  
24 providing all human resources services for defendants' locations, in concert with others,  
25 actively advise defendants' agents on the enforcement of the illegal policies complained of in  
26 this case, including, but not limited to, the On Call Pay Policy, Community Work Policy,  
27 Training Compensation Policy, Pre-Needs Appointment Policy, Meal Break Deduction Policy,  
28 Pre-Approval for Overtime Pay Policy, Unrecorded Work Time Policy, and the policy



1 regarding the calculation of Class Members' overtime.

2 34. Upon information and belief, the SCI Support Centers, due in part to their role of  
3 providing all human resources services for defendants' locations, in concert with others,  
4 actively ensure defendants' compliance or non-compliance with the state and common laws  
5 asserted in this action.

6 35. Upon information and belief, the SCI Support Centers, in concert with others,  
7 play a central role in reviewing and counseling defendants regarding employment decisions,  
8 including hiring and firing of Class Members.

9 36. Upon information and belief, the SCI Support Centers, in concert with others,  
10 have the authority to, and do, through their agents, make decisions that set employees'  
11 schedules, hours and standard benefit levels.

12 37. Upon information and belief, the SCI Support Centers, in concert with others,  
13 have the authority to, and do, through their agents, make decisions that set standard pay scales.

14 38. Upon information and belief, the SCI Support Centers, in concert with others,  
15 determine and draft policies, answer questions regarding human resources issues and policies,  
16 resolve issues regarding policies and their application, counsel locations on human resources  
17 issues, and communicate with employees about company issues and human resources issues  
18 and policies, including issues related to hours worked and payment for such hours worked.

19 39. Upon information and belief, the SCI Support Centers, in concert with others,  
20 have the authority to, and do, through their agents, provide employees with information  
21 regarding benefit plans and providers, oversee the implementation and execution of benefit  
22 plans, retain ultimate authority for providing information and responding to questions  
23 regarding the benefit plans, maintain records regarding the benefit plans, make determinations,  
24 either directly or indirectly, regarding the scope and amount of benefits available to employees,  
25 and are responsible for providing employees, directly or indirectly, with information regarding  
26 their benefits, including benefits statements and information regarding their 401(k) plans.

1       40. Upon information and belief, the SCI Support Centers, in concert with others,  
2 have the authority to, and do, through their agents, make decisions concerning the issuance of  
3 payroll checks, directly or indirectly.

4       41. Upon information and belief, the SCI Support Centers' primary function of  
5 facilitating the execution of corporate strategies includes maintaining and directing a single,  
6 integrated set of operations across the SCI network.

7       42. Upon information and belief, the SCI Support Centers are responsible for, and  
8 subject to, centralized management directions and decisions.

9       43. The SCI Support Centers are owned, directly or indirectly, by defendant SCI.  
10 Additionally, SCI maintains an ownership interest, directly or indirectly, in the SCI  
11 Cooperative that is owned by the SCI Support Centers.

12       44. Upon information and belief, the SCI Support Centers are part of an extensive  
13 and complex network of corporations which SCI has created and owns in an effort to operate  
14 its nationwide locations in a unified, consistent manner. This network promotes a fraud or  
15 injustice, in that it attempts to avoid liability for paying its common employees and prevents  
16 employees from accurately identifying their employers.

17       45. Because the SCI Support Centers have authority to hire or fire employees,  
18 provide day-to-day support regarding human resources issues, including the hiring and firing  
19 of employees, and control the drafting and enforcement of the policies which govern the hiring  
20 and firing of employees, the SCI Support Centers have the power to hire and fire employees.

21       46. Because the SCI Support Centers have authority to establish employees' work  
22 schedules and/or conditions of employment, provide day-to-day support regarding human  
23 resources issues, including employees' work schedules and/or conditions of employment,  
24 control the drafting and enforcement of the policies which govern employees' schedules and/or  
25 conditions of employment, and administer employees' benefit programs, the SCI Support  
26 Centers supervise and control employees' work schedules and/or conditions of employment.

27       47. Because the SCI Support Centers have authority to establish employees' rate and  
28 method of payment and centrally control payroll functions, the SCI Support Centers determine

1 the rate and method of employees' payment.

2 48. Because the SCI Support Centers play a central role in the keeping of centralized  
3 records, including a database, regarding employees' employment records, the SCI Support  
4 Centers maintain employees' employment records.

5 49. For all of the foregoing reasons, among others, including the SCI Support  
6 Centers' services and support with respect to all executive, management, administrative,  
7 accounting, data processing, and human resources services, training, and nationwide  
8 communications with employees, the SCI Support Centers provide centralized control over  
9 defendants' labor relations.

10 50. Because the SCI Support Centers provide day-to-day support regarding human  
11 resources issues, including employees' work schedules and/or conditions of employment,  
12 control the drafting and enforcement of the policies which govern employees' schedules and/or  
13 conditions of employment, and administer employee's benefit programs, they are  
14 affirmatively, directly, and actively involved in operations of the defendants' business  
15 functions, particularly in relation to the employment of Class Members.

16 51. Because the SCI Support Centers are actively involved in the creation of the  
17 illegal policies complained of in this case, actively advise defendants' agents on the  
18 enforcement of the illegal policies complained of in this case and actively ensure defendants'  
19 compliance or non-compliance with the state and common laws asserted in this action, the SCI  
20 Support Centers actively participate in the violations complained of in this action.

21 52. Because the SCI Support Centers, together with the SCI Cooperative, are owned  
22 by SCI, directly or indirectly, the SCI Support Centers and other defendants share common  
23 ownership.

24 53. Because the SCI Support Centers are subject to centralized management  
25 directions and decisions that govern the entities owned by SCI, including a single line  
26 management model applicable to the entire SCI network, the SCI Support Centers and other  
27 defendants share common management.  
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1           54. Because the SCI Support Centers are subject to a single line management model  
2 applicable to the entire SCI network for the purpose of streamlining the organization and  
3 achieving operational efficiencies, the SCI Support Centers and other defendants share  
4 functional integration of operations.

5           55. Because the SCI Support Centers control the drafting and enforcement of the  
6 employment and human resources policies related to employees, centrally control the payroll  
7 functions related to employees' employment, provide services and support with respect to all  
8 executive, management, administrative, accounting, data processing, and human resources  
9 services, training, and nationwide communications with employees, and are subject to a  
10 network-wide single line management model, the SCI Support Centers are not completely  
11 disassociated with respect to employees' employment.

12           56. The SCI Support Centers may be deemed to share control of employees, directly  
13 or indirectly, by reason of the fact that they are under common control with the SCI  
14 Cooperative and the funeral home locations because they are all owned by SCI, directly or  
15 indirectly, and because the SCI Support Centers control the drafting and enforcement of the  
16 employment and human resources policies related to Class Members, centrally control the  
17 payroll functions related to employees' employment, provide services and support with respect  
18 to all executive, management, administrative, accounting, data processing, and human  
19 resources services, training, and nationwide communications with employees, and are subject  
20 to a network-wide single line management model.

21           57. Because the SCI Support Centers are part of an extensive and complex network  
22 through which SCI promotes a fraud or injustice in attempting to shield from liability itself and  
23 other entities which are responsible for employees' employment and in preventing employees  
24 from accurately determining the identity of their employers, the SCI Support Centers are an  
25 alter ego of SCI and the other entities SCI owns.

26           58. Based upon the foregoing, the SCI Support Centers are liable to Class Members  
27 because of their active role in operating the business, their role in the violations complained of  
28 in this action, their status as employer, joint employer, single employer, alter ego, or otherwise

1 according to state statutory and common law.

2  
3 ***The SCI Cooperative Is Liable to Class Members***

4 59. The SCI Cooperative is a Delaware corporation which is owned, directly or  
5 indirectly, by SCI and the SCI Support Centers.

6 60. The SCI Cooperative, through agreements with the SCI Support Centers,  
7 provides additional human resources services and support for the funeral home locations.

8 61. On-site training at funeral homes and cemeteries is provided by field personnel  
9 and training departments affiliated with the SCI Cooperative.

10 62. The SCI Cooperative publishes and maintains the weekly newsletter "Frontline,"  
11 and the "Global Village" intranet site, publications through which defendants communicate  
12 with their nationwide employees.

13 63. The SCI Cooperative administers benefits by contracting with third-party benefit  
14 providers to respond to questions related to day-to-day benefits services, such as local provider  
15 questions, access to online services, and benefits provider contact information. To the extent  
16 that those third-party providers cannot respond to questions, the SCI Cooperative will respond.

17 64. The SCI Cooperative maintains a payroll department and a database that contains  
18 information on current and former employees of SCI subsidiaries.

19 65. SCI and the entities it owns directly or indirectly, including the SCI Cooperative,  
20 employ a single line management model in an effort to streamline the organization and ensure  
21 that operational efficiencies are achieved throughout the SCI network.

22 66. The funeral home locations that SCI owns, directly or indirectly, are organized  
23 into various regions and within each region the funeral home locations share common  
24 resources including personnel, preparation services and vehicles.

25 67. Upon information and belief, the SCI Cooperative, due in part to its role of  
26 providing additional human resources services and support, in concert with others, is actively  
27 involved in the creation of the illegal policies complained of in this case, including, but not  
28 limited to, the On Call Pay Policy, Community Work Policy, Training Compensation Policy,

1 Pre-Needs Appointment Policy, Meal Break Deduction Policy, Pre-Approval for Overtime Pay  
2 Policy, Unrecorded Work Time Policy, and the policy regarding the calculation of Class  
3 Members' overtime.

4 68. Upon information and belief, the SCI Cooperative, due in part to its role of  
5 providing additional human resources services and support, in concert with others, actively  
6 advises defendants' agents on the enforcement of the illegal policies complained of in this  
7 case, including, but not limited to, the On Call Pay Policy, Community Work Policy, Training  
8 Compensation Policy, Pre-Needs Appointment Policy, Meal Break Deduction Policy, Pre-  
9 Approval for Overtime Pay Policy, Unrecorded Work Time Policy, and the policy regarding  
10 the calculation of Class Members' overtime.

11 69. Upon information and belief, the SCI Cooperative, due in part to its role of  
12 providing additional human resources services and support, in concert with others, actively  
13 ensures defendants' compliance or non-compliance with the state and common laws asserted in  
14 this action.

15 70. Upon information and belief, the SCI Cooperative, in concert with others, plays a  
16 central role in reviewing and counseling defendants regarding employment decisions,  
17 including hiring and firing of Class Members.

18 71. Upon information and belief, the SCI Cooperative, in concert with others, has the  
19 authority to, and does, through its agents, make decisions that set employees' schedules, hours,  
20 and standard benefit levels.

21 72. Upon information and belief, the SCI Cooperative, in concert with others, has the  
22 authority to, and does, through its agents, make decisions that set standard pay scales.

23 73. Upon information and belief, the SCI Cooperative determines and drafts policies,  
24 answers questions regarding human resources issues and policies, resolves issues regarding  
25 policies and their application, counsels locations on human resources issues, and  
26 communicates with employees about company issues and human resources issues and policies,  
27 including issues related to hours worked and payment for such hours worked.  
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1           74. Upon information and belief, the SCI Cooperative provides employees with  
2 information regarding benefit plans and providers, oversees the implementation and execution  
3 of benefit plans, retains ultimate authority for providing information and responding to  
4 questions regarding the benefit plans, maintains records regarding the benefit plans, makes  
5 determinations, either directly or indirectly, regarding the scope and amount of benefits  
6 available to employees, and is responsible for providing employees, directly or indirectly, with  
7 information regarding their benefits, including benefits statements and information regarding  
8 their 401(k) plans.

9           75. Upon information and belief, the SCI Cooperative maintains payroll records  
10 regarding employees and, in concert with others, the SCI Cooperative has the authority to, and  
11 does, through its agents, make decisions concerning the issuance of payroll checks, directly or  
12 indirectly.

13           76. Upon information and belief, the SCI Cooperative's functions in providing  
14 services and support regarding human resources, training, benefits administration, and payroll  
15 include a function maintaining and directing a single, integrated set of operations across the  
16 SCI network.

17           77. Upon information and belief, the SCI Cooperative is responsible for, and subject  
18 to, centralized management directions and decisions.

19           78. The SCI Cooperative is owned, directly or indirectly, by defendants SCI and the  
20 SCI Support Centers. Additionally, SCI owns the SCI Support Centers, directly or indirectly.

21           79. Upon information and belief, the SCI Cooperative is part of an extensive and  
22 complex network of corporations which SCI has created and owns in an effort to operate its  
23 nationwide locations in a unified, consistent manner. This network promotes a fraud or  
24 injustice, in that it attempts to avoid liability for paying its common employees and prevents  
25 employees from accurately identifying their employers.

26           80. Because the SCI Cooperative has authority to hire or fire Class Members,  
27 provides day-to-day support regarding human resources issues, including the hiring and firing  
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1 of Class Members, and controls the drafting and enforcement of the policies which govern the  
2 hiring and firing of employees, the SCI Cooperative has the power to hire and fire employees.

3 81. Because the SCI Cooperative has authority to establish employees' work  
4 schedules and/or conditions of employment, provides day-to-day support regarding human  
5 resources issues, including employees' work schedules and/or conditions of employment,  
6 controls the drafting and enforcement of the policies which govern employees' schedules  
7 and/or conditions of employment, and administers employees' benefit programs, the SCI  
8 Cooperative supervises and controls employees' work schedules and/or conditions of  
9 employment.

10 82. Because the SCI Cooperative has authority to establish employees' rate and  
11 method of payment and centrally control payroll functions, the SCI Cooperative determines the  
12 rate and method of employees' payment.

13 83. Because the SCI Cooperative keeps centralized records, including a database,  
14 regarding employees' employment records, the SCI Cooperative maintains employees'  
15 employment records.

16 84. For all of the foregoing reasons, among others, including the SCI Cooperative's  
17 human resources services and support, training function, publication of communications across  
18 the SCI network, administration of benefit programs, and maintenance of the payroll  
19 department, the SCI Cooperative provides centralized control over defendants' labor relations.

20 85. Because the SCI Cooperative provides day-to-day support regarding human  
21 resources issues, including employees' work schedules and/or conditions of employment,  
22 controls the drafting and enforcement of the policies which govern employees' schedules  
23 and/or conditions of employment, and administers employees' benefit programs, it is  
24 affirmatively, directly, and actively involved in operations of the defendants' business  
25 functions, particularly as it relates to the employment of Class Members.

26 86. Because the SCI Cooperative is actively involved in the creation of the illegal  
27 policies complained of in this case, actively advises defendants' agents on the enforcement of  
28 the illegal policies complained of in this case and actively ensures defendants' compliance or

1 non-compliance with the state and common laws asserted in this action, the SCI Cooperative  
2 actively participates in the violations complained of in this action.

3 87. Because the SCI Cooperative, together with the SCI Support Centers, is owned  
4 by SCI, directly or indirectly, the SCI Cooperative and other defendants share common  
5 ownership.

6 88. Because the SCI Cooperative is subject to centralized management directions and  
7 decisions that govern the entities owned by SCI, including a single line management model  
8 applicable to the entire SCI network, the SCI Cooperative and other defendants share common  
9 management.

10 89. Because the SCI Cooperative is subject to a single line management model  
11 applicable to the entire SCI network for the purpose of streamlining the organization and  
12 achieving operational efficiencies, the SCI Cooperative and other defendants share functional  
13 integration of operations.

14 90. Because the SCI Cooperative controls the drafting and enforcement of the  
15 employment and human resources policies related to employees, centrally controls the payroll  
16 functions related to employees' employment, provides services and support with respect to  
17 human resources, training, and nationwide communications with employees, and is subject to a  
18 network-wide single line management model, the SCI Cooperative is not completely  
19 disassociated with respect to employees' employment.

20 91. The SCI Cooperative may be deemed to share control of employees, directly or  
21 indirectly, by reason of the fact that it is under common control with the SCI Support Centers  
22 and the funeral home locations because they are all owned by SCI, directly or indirectly, and  
23 because the SCI Cooperative controls the drafting and enforcement of the employment and  
24 human resources policies related to employees, centrally controls the payroll functions related  
25 to employees' employment, provides services and support with respect to human resources,  
26 training, and nationwide communications with employees, and is subject to a network-wide  
27 single line management model.

28

1           92. Because the SCI Cooperative is part of an extensive and complex network  
2 through which SCI promotes a fraud or injustice in attempting to shield from liability itself and  
3 other entities which are responsible for employees' employment and in preventing employees  
4 from accurately determining the identity of their employers, the SCI Cooperative is an alter  
5 ego of SCI and the other entities SCI owns.

6           93. Based upon the foregoing, the SCI Cooperative is liable to Class Members  
7 because of its active role in operating the business, its role in the violations complained of in  
8 this action, its status as employer, joint employer, single employer, alter ego, or otherwise  
9 according to state statutory and common law.

10 ***SCI Is Liable to Class Members***

11           94. Defendant SCI is a corporation with its headquarters being at 1929 Allen  
12 Parkway, Houston, Texas 77019.

13           95. SCI owns, directly or indirectly, various funeral home locations and various  
14 other companies or entities, including the SCI Cooperative and the SCI Support Centers, in a  
15 nationwide enterprise.

16           96. SCI and the entities it owns directly or indirectly, including the SCI Cooperative  
17 and the SCI Support Centers, employ a single line management model in an effort to  
18 streamline the organization and ensure that operational efficiencies are achieved throughout the  
19 SCI network.

20           97. The funeral home locations that SCI owns, directly or indirectly, are organized  
21 into various regions and within each region the funeral home locations share common  
22 resources including personnel, preparation services and vehicles.

23           98. Upon information and belief, at all relevant times all functions at all entities in  
24 the SCI network, including the SCI Cooperative and the SCI Support Centers, reported to SCI,  
25 directly or indirectly.

26           99. Upon information and belief, at all relevant times SCI maintained control and  
27 authority, directly or indirectly, over all functions at the entities in the SCI network, including  
28 the SCI Cooperative and the SCI Support Centers.

1        100. Upon information and belief, SCI, in concert with others, has the authority to,  
2 and does, through its agents, make decisions concerning the creation of the illegal policies  
3 complained of in this case, including, but not limited to, the On Call Pay Policy, Community  
4 Work Policy, Training Compensation Policy, Pre-Needs Appointment Policy, Meal Break  
5 Deduction Policy, Pre-Approval for Overtime Pay Policy, Unrecorded Work Time Policy, and  
6 the policy regarding the calculation of Class Members' overtime.

7        101. Upon information and belief, SCI, in concert with others, has the authority to,  
8 and does, through its agents, make decisions concerning advising defendants' agents on the  
9 enforcement of the illegal policies complained of in this case, including, but not limited to, the  
10 On Call Pay Policy, Community Work Policy, Training Compensation Policy, Pre-Needs  
11 Appointment Policy, Meal Break Deduction Policy, Pre-Approval for Overtime Pay Policy,  
12 Unrecorded Work Time Policy, and the policy regarding the calculation of Class Members'  
13 overtime.

14        102. Upon information and belief, SCI, in concert with others, has the authority to,  
15 and does, through its agents, make decisions concerning defendants' compliance or non-  
16 compliance with the state and common laws asserted in this action.

17        103. Upon information and belief, SCI, in concert with others, has the authority to,  
18 and does, through its agents, make decisions concerning reviewing and counseling defendants  
19 regarding employment decisions, including hiring and firing of Class Members.

20        104. Upon information and belief, SCI, in concert with others, has the authority to,  
21 and does, through its agents, make decisions concerning employees' schedules, hours and  
22 standard benefit levels.

23        105. Upon information and belief, SCI, in concert with others, has the authority to,  
24 and does, through its agents, make decisions concerning standard pay scales.

25        106. Upon information and belief, SCI, in concert with others, has the authority to,  
26 and does, through its agents, make decisions concerning the determination and drafting of  
27 policies, answering questions regarding human resources issues and policies, resolving issues  
28 regarding policies and their application, counseling locations on human resources issues, and

1 communicating with employees about company issues and human resources issues and  
2 policies, including issues related to hours worked and payment for such hours worked.

3 107. Upon information and belief, SCI, in concert with others, has the authority to,  
4 and does, through its agents, make decisions concerning providing employees with information  
5 regarding benefit plans and providers, overseeing the implementation and execution of benefit  
6 plans, providing information and responding to questions regarding the benefit plans,  
7 maintaining records regarding the benefit plans, making determinations, either directly or  
8 indirectly, regarding the scope and amount of benefits available to employees, and providing  
9 employees, directly or indirectly, with information regarding their benefits, including benefits  
10 statements and information regarding their 401(k) plans.

11 108. Upon information and belief, SCI, in concert with others, has the authority to,  
12 and does, through its agents, make decisions concerning the issuance of payroll checks,  
13 directly or indirectly.

14 109. SCI, in concert with others, has the authority to, and does, through its agents,  
15 make decisions concerning maintaining and directing a single, integrated set of operations  
16 across the SCI network.

17 110. Upon information and belief, SCI, in concert with others, has the authority to,  
18 and does, through its agents, make decisions concerning centralized management directions  
19 and decisions.

20 111. Upon information and belief, SCI is part of an extensive and complex network of  
21 corporations which SCI has created and owns in an effort to operate its nationwide locations in  
22 a unified, consistent manner. This network promotes a fraud or injustice, in that it attempts to  
23 avoid liability for paying its common employees and prevents employees from accurately  
24 identifying their employers.

25 112. Because SCI, in concert with others, has the authority to, and does, through its  
26 agents, make decisions concerning hiring or firing employees, providing support regarding  
27 human resources issues, including the hiring and firing of Class Members, and controlling the  
28

1 drafting and enforcement of the policies which govern the hiring and firing of employees, SCI  
2 has the power to hire and fire employees.

3 113. Because SCI, in concert with others, has the authority to, and does, through its  
4 agents, make decisions concerning employees' work schedules and/or conditions of  
5 employment, providing support regarding human resources issues, including Class Members'  
6 work schedules and/or conditions of employment, controlling the drafting and enforcement of  
7 the policies which govern employees' schedules and/or conditions of employment, and  
8 administering employees' benefit programs, SCI supervises and controls employees' work  
9 schedules and/or conditions of employment.

10 114. Because SCI, in concert with others, has the authority to, and does, through its  
11 agents, make decisions concerning employees' rate and method of payment and centrally  
12 controlling payroll functions, SCI determines the rate and method of employees' payment.

13 115. Because SCI, in concert with others, has the authority to, and does, through its  
14 agents, make decisions concerning centralized records, including a database, regarding  
15 employees' employment records, SCI maintains employees' employment records.

16 116. For all of the foregoing reasons, among others, including SCI's authority and  
17 exercise of authority with respect to human resources services and support, training function,  
18 publication of communications across its network, administration of benefit programs, and  
19 maintenance of the payroll department, SCI provides centralized control over defendants' labor  
20 relations.

21 117. Because SCI, in concert with others, has the authority to, and does, through its  
22 agents, make decisions concerning human resources issues, including employees' work  
23 schedules and/or conditions of employment, controlling the drafting and enforcement of the  
24 policies which govern employees' schedules and/or conditions of employment, and  
25 administering employees' benefit programs, it plays a central role in operations of defendants'  
26 business functions, particularly in regards to the employment of Class Members.

27 118. Because SCI, in concert with others, has the authority to, and does, through its  
28 agents, make decisions concerning the illegal policies complained of in this case, advising of



1 defendants' agents on the enforcement of the illegal policies complained of in this case and  
2 ensuring defendants' compliance or non-compliance with the state and common laws asserted  
3 in this action, SCI plays a central role in the violations complained of in this action.

4 119. Because SCI owns, directly or indirectly, the SCI Cooperative and the SCI  
5 Support Centers, SCI and the other defendants share common ownership.

6 120. Because SCI maintains and is subject to centralized management directions and  
7 decisions that govern the entities it owns, directly or indirectly, including a single line  
8 management model applicable to the entire SCI network, SCI and the other defendants share  
9 common management.

10 121. Because SCI maintains and is subject to a single line management model  
11 applicable to the entire SCI network for the purpose of streamlining the organization and  
12 achieving operational efficiencies, SCI and the other defendants share functional integration of  
13 operations.

14 122. Because SCI, in concert with others, has the authority to, and does, through its  
15 agents, make decisions concerning drafting and enforcing employment and human resources  
16 policies related to employees, centrally controlling the payroll functions related to employees'  
17 employment, providing services and support with respect to human resources, training, and  
18 nationwide communications with employees, and is subject to a network-wide single line  
19 management model, SCI is not completely disassociated with respect to employees'  
20 employment.

21 123. SCI may be deemed to share control of employees, directly or indirectly, by  
22 reason of the fact that it is under common control with the SCI Cooperative, the SCI Support  
23 Centers and the funeral home locations, all of which are owned by SCI, directly or indirectly,  
24 and because SCI plays a central role in the drafting and enforcement of the employment and  
25 human resources policies related to employees, centrally controlling the payroll functions  
26 related to employees' employment, providing services and support with respect to human  
27 resources, training, and nationwide communications with employees, and maintains and is  
28 subject to a network-wide single line management model.



1        124. Because SCI maintains and is part of an extensive and complex network through  
2 which it promotes a fraud or injustice in attempting to shield from liability itself and other  
3 entities which are responsible for employees' employment and in preventing employees from  
4 accurately determining the identity of their employers, SCI is an alter ego of the other  
5 defendants and the other entities it owns.

6        125. Based upon the foregoing, SCI is liable to employees because of its central role  
7 in operating the business, its role in the violations complained of in this action, its status as  
8 employer, joint employer, single employer, alter ego, or otherwise according to state statutory  
9 and common law.

10 ***Jane D. Jones Is Liable to Class Members***

11        126. Defendant Jane D. Jones has acted as Vice President of Human Resources for  
12 SCI since 2005.

13        127. Ms. Jones oversees human resources, training and education, and payroll and  
14 commission services for approximately 20,000 employees in North America.

15        128. Upon information and belief, Ms. Jones is responsible for, provides direction and  
16 control over, and is authorized to direct all aspects of human resources functions across SCI's  
17 network.

18        129. Upon information and belief, due in part to her role of overseeing human  
19 resources, training and education, and payroll and commission services, in concert with others,  
20 Ms. Jones is actively involved in the creation of the illegal policies complained of in this case,  
21 including, but not limited to, the On Call Pay Policy, Community Work Policy, Training  
22 Compensation Policy, Pre-Needs Appointment Policy, Meal Break Deduction Policy, Pre-  
23 Approval for Overtime Pay Policy, Unrecorded Work Time Policy, and the policy regarding  
24 the calculation of Class Members' overtime.

25        130. Upon information and belief, due in part to her role of overseeing human  
26 resources, training and education, and payroll and commission services, in concert with others,  
27 Ms. Jones actively advises defendants' agents on the enforcement of the illegal policies  
28 complained of in this case, including, but not limited to, the On Call Pay Policy, Community

1 Work Policy, Training Compensation Policy, Pre-Needs Appointment Policy, Meal Break  
2 Deduction Policy, Pre-Approval for Overtime Pay Policy, Unrecorded Work Time Policy, and  
3 the policy regarding the calculation of Class Members' overtime.

4 131. Upon information and belief, due in part to her role of overseeing human  
5 resources, training and education, and payroll and commission services, in concert with others,  
6 Ms. Jones actively ensures defendants' compliance or non-compliance with the state and  
7 common laws asserted in this action.

8 132. Upon information and belief, Ms. Jones, in concert with others, is actively  
9 involved in reviewing and counseling defendants regarding employment decisions, including  
10 hiring and firing of Class Members.

11 133. Upon information and belief, Ms. Jones, in concert with others, is actively  
12 involved in decisions that set employees' schedules, hours and standard benefit levels.

13 134. Upon information and belief, Ms. Jones, in concert with others, is actively  
14 involved decisions that set standard pay scales.

15 135. Upon information and belief, Ms. Jones, in concert with others, is actively  
16 involved in the determination and drafting of human resources policies, the resolution of issues  
17 and disputes regarding policies and their application, the counseling locations receive  
18 regarding human resources issues, and communications with employees about human  
19 resources issues and policies.

20 136. Upon information and belief, Ms. Jones, in concert with others, is actively  
21 involved in defendants' employment and human resources records, including the systems for  
22 keeping and maintaining those records.

23 137. Upon information and belief, Ms. Jones, in concert with others, is actively  
24 involved in training and education functions across SCI's network.

25 138. Upon information and belief, Ms. Jones, in concert with others, is actively  
26 involved in determining the type and scope of training employees must attend as well as any  
27 compensation they receive for attending training.

28

1           139. Upon information and belief, Ms. Jones, in concert with others, is actively  
2 involved in payroll and commission functions across SCI's network.

3           140. Upon information and belief, Ms. Jones, in concert with others, is actively  
4 involved in the system for keeping and maintaining employees' payroll records, the timing and  
5 method with which payment is conveyed to employees, and the manner and method in which  
6 employees receive payroll information including their payroll checks.

7           141. Upon information and belief, Ms. Jones, in concert with others, is actively  
8 involved in benefit plans across SCI's network.

9           142. Upon information and belief, Ms. Jones, in concert with others, is actively  
10 involved in determining the type and scope of benefits available to employees, the method and  
11 manner in which information regarding those plans is conveyed to employees, and the system  
12 for keeping and maintaining records related to employees' benefits.

13           143. Because Ms. Jones has authority to hire or fire employees, provide and direct  
14 support regarding human resources issues, including the hiring and firing of employees, and  
15 control the drafting and enforcement of the policies which govern the hiring and firing of  
16 employees, Ms. Jones has the power to hire and fire employees.

17           144. Because Ms. Jones has authority to establish work schedules and/or conditions of  
18 employment, provide and direct support regarding human resources issues, including work  
19 schedules and/or conditions of employment, control the drafting and enforcement of the  
20 policies which govern employees' schedules and/or conditions of employment, establish the  
21 type and scope of training employees receive, and administer employees' benefit programs,  
22 including standard benefit levels and the type and scope of benefits available to employees,  
23 Ms. Jones supervises and controls employees' work schedules and/or conditions of  
24 employment.

25           145. Because Ms. Jones has authority to establish employees' rate and method of  
26 payment and centrally control payroll functions, including standard pay scales, the provision of  
27 payroll information, and the timing of payment, Ms. Jones determines the rate and method of  
28 employees' payment.

1           146. Because Ms. Jones has authority with respect to defendants' centralized records,  
2 including a database regarding employees' employment records, and systems for keeping and  
3 maintaining payroll, benefits, and other employment-related records, Ms. Jones maintains  
4 employees' employment records.

5           147. Because Ms. Jones provides day-to-day support regarding human resources  
6 issues, including employees' work schedules and/or conditions of employment, controls the  
7 drafting and enforcement of the policies which govern employees' schedules and/or conditions  
8 of employment, and administers employees' benefit programs, she is affirmatively, directly,  
9 and actively involved in operations of defendants' business functions, particularly in regards to  
10 the employment of Class Members.

11           148. Because Ms. Jones is actively involved in the creation of the illegal policies  
12 complained of in this case, actively advises defendants' agents on the enforcement of the  
13 illegal policies complained of in this case and actively ensures defendants' compliance or non-  
14 compliance with the state and common laws asserted in this action, Ms. Jones actively  
15 participates in the violations complained of in this action.

16           149. Based upon the foregoing, Ms. Jones is liable to Class Members because of her  
17 active role in operating the business, her role in the violations complained of in this action, her  
18 status as an employer, or otherwise according to state statutory and common law.

19 ***Gwen Petteway Is Liable to Class Members***

20           150. Defendant Gwen Petteway has acted as Human Resources Director of defendant  
21 SCI Houston since 2005.

22           151. Ms. Petteway's job responsibilities include familiarity with the human resources  
23 services of the subsidiary and affiliate companies of SCI, as well as training and benefits  
24 provided to those companies.

25           152. As Human resources Director, Ms. Petteway's job responsibilities include  
26 providing and/or supervising day-to-day human resources services and support for defendants'  
27 funeral home locations.

28           153. Upon information and belief, due in part to her role as Human Resources

1 Director, Ms. Petteway, in concert with others, is actively involved, and plays a central role, in  
2 the creation of the illegal policies complained of in this case, including, but not limited to, the  
3 On Call Pay Policy, Community Work Policy, Training Compensation Policy, Pre-Needs  
4 Appointment Policy, Meal Break Deduction Policy, Pre-Approval for Overtime Pay Policy,  
5 Unrecorded Work Time Policy, and the policy regarding the calculation of Class Members'  
6 overtime.

7 154. Upon information and belief, due in part to her role as Human Resources  
8 Director, Ms. Petteway, in concert with others, actively, and in a central role, advises  
9 defendants' agents on the enforcement of the illegal policies complained of in this case,  
10 including, but not limited to, the On Call Pay Policy, Community Work Policy, Training  
11 Compensation Policy, Pre-Needs Appointment Policy, Meal Break Deduction Policy, Pre-  
12 Approval for Overtime Pay Policy, Unrecorded Work Time Policy, and the policy regarding  
13 the calculation of Class Members' overtime.

14 155. Upon information and belief, due in part to her role as Human Resources  
15 Director, Ms. Petteway, in concert with others, is actively involved, and plays a central role, in  
16 ensuring defendants' compliance or non-compliance with the state and common laws asserted  
17 in this action.

18 156. Upon information and belief, Ms. Petteway, in concert with others, is actively  
19 involved, and plays a central role, in human resources functions across SCI's network.

20 157. Upon information and belief, Ms. Petteway, in concert with others, is actively  
21 involved, and plays a central role, in day-to-day human resources services and support.

22 158. Upon information and belief, Ms. Petteway, in concert with others, is actively  
23 involved, and plays a central role, in reviewing and counseling defendants regarding  
24 employment decisions, including hiring and firing of Class Members.

25 159. Upon information and belief, Ms. Petteway, in concert with others, is actively  
26 involved, and plays a central role, in decisions that set employee's schedules, hours and  
27 standard benefit levels.

28 160. Upon information and belief, Ms. Petteway, in concert with others, is actively

1 involved, and plays a central role, in decisions that set standard pay scales.

2 161. Upon information and belief, Ms. Petteway, in concert with others, is actively  
3 involved, and plays a central role, in defendants' human resources policies, resolving issues  
4 and disputes regarding policies and their applications, counseling locations receive regarding  
5 human resources issues, providing day-to-day services and support regarding human resources  
6 issues, and communications with employees about human resources issues and policies.

7 162. Upon information and belief, Ms. Petteway, in concert with others, is actively  
8 involved in defendants' employment and human resources records, including the systems for  
9 keeping and maintaining those records.

10 163. Upon information and belief, Ms. Petteway, in concert with others, is actively  
11 involved, and plays a central role, in training and education functions across SCI's network.

12 164. Upon information and belief, Ms. Petteway, in concert with others, is actively  
13 involved, and plays a central role, in decisions that determine the type and scope of training  
14 employees must attend as well as any compensation they receive for attending training.

15 165. Upon information and belief, Ms. Petteway, in concert with others, is actively  
16 involved, and plays a central role, in payroll and commission functions across SCI's network.

17 166. Upon information and belief, Ms. Petteway, in concert with others, is actively  
18 involved in the system for keeping and maintaining employees' payroll records, the timing and  
19 method with which payment is conveyed to employees, and the manner and method in which  
20 employees receive payroll information including their payroll checks.

21 167. Upon information and belief, Ms. Petteway, in concert with others, is actively  
22 involved, and plays a central role, in defendants' benefit plans.

23 168. Upon information and belief, Ms. Petteway, in concert with others, is actively  
24 involved, and plays a central role, in the type and scope of benefits available to employees, the  
25 method and manner in which information regarding those plans is conveyed to employees, and  
26 the system for keeping and maintaining records related to employees' benefits.

27 169. Because Ms. Petteway has authority to hire or fire employees, provide and direct  
28 support regarding human resources issues, including the hiring and firing of Class Members,



1 and control the drafting and enforcement of the policies which govern the hiring and firing of  
2 employees, Ms. Petteway has the power to hire and fire employees.

3 170. Because Ms. Petteway has authority to establish work schedules and/or  
4 conditions of employment, provide and direct support regarding human resources issues,  
5 including work schedules and/or conditions of employment, control the drafting and  
6 enforcement of the policies which govern employees' schedules and/or conditions of  
7 employment, establish the type and scope of training employees receive, and administer  
8 employees' benefit programs, including standard benefit levels and the type and scope of  
9 benefits available to employees, Ms. Petteway supervises and controls employees' work  
10 schedules and/or conditions of employment.

11 171. Because Ms. Petteway has authority to establish employees' rate and method of  
12 payment and centrally control payroll functions, including standard pay scales, the provision of  
13 payroll information, and the timing of payment, Ms. Petteway determines the rate and method  
14 of employees' payment.

15 172. Because Ms. Petteway has authority with respect to defendants' centralized  
16 records, including a database regarding employees' employment records, and systems for  
17 keeping and maintaining payroll, benefits, and other employment-related records, Ms.  
18 Petteway maintains employees' employment records.

19 173. Because Ms. Petteway is actively involved, or plays a central role, in day-to-day  
20 support regarding human resources issues, including employees' work schedules and/or  
21 conditions of employment, controls the drafting and enforcement of the policies which govern  
22 employees' schedules and/or conditions of employment, and administers employees' benefit  
23 programs, she is affirmatively, directly, and actively involved in operations of defendants'  
24 business functions, particularly in regards to the employment of Class Members.

25 174. Because Ms. Petteway is actively involved, or plays a central role, in the creation  
26 of the illegal policies complained of in this case, actively advises defendants' agents on the  
27 enforcement of the illegal policies complained of in this case and actively ensures defendants'  
28 compliance or non-compliance with the state and common laws asserted in this action, she



1 actively participates, or plays a central role, in the violations complained of in this action.

2 175. Based upon the foregoing, Ms. Petteway is liable to Class Members because of  
3 her status as an employer according to state statutory and common law.

4 ***Thomas Ryan Is Liable to Class Members***

5 176. Defendant Thomas Ryan has acted as President and Chief Executive Officer of  
6 SCI since in or around 2003.

7 177. Upon information and belief, Mr. Ryan's responsibilities include actively  
8 managing SCI and its network.

9 178. Upon information and belief, in concert with others, Mr. Ryan has the authority  
10 to, and does, make decisions that concern the policies defendants adopt and the implementation  
11 of those policies.

12 179. Upon information and belief, in concert with others, Mr. Ryan has the authority  
13 to, and does, make decisions that concern defendants' operations, including functions related to  
14 employment, human resources, training, payroll, and benefits.

15 180. Upon information and belief, due in part to his role as President and Chief  
16 Executive Officer, Mr. Ryan is actively involved in the creation of the illegal policies  
17 complained of in this case, including, but not limited to, the On Call Pay Policy, Community  
18 Work Policy, Training Compensation Policy, Pre-Needs Appointment Policy, Meal Break  
19 Deduction Policy, Pre-Approval for Overtime Pay Policy, Unrecorded Work Time Policy, and  
20 the policy regarding the calculation of Class Members' overtime.

21 181. Upon information and belief, due in part to his role as President and Chief  
22 Executive Officer, Mr. Ryan actively advises defendants' agents on the enforcement of the  
23 illegal policies complained of in this case, including, but not limited to, the On Call Pay Policy,  
24 Community Work Policy, Training Compensation Policy, Pre-Needs Appointment Policy,  
25 Meal Break Deduction Policy, Pre-Approval for Overtime Pay Policy, Unrecorded Work Time  
26 Policy, and the policy regarding the calculation of Class Members' overtime.

27 182. Upon information and belief, due in part to his role as President and Chief  
28 Executive Officer, Mr. Ryan actively ensures defendants' compliance or non-compliance with

1 the state and common laws asserted in this action.

2 183. Upon information and belief, in concert with others, Mr. Ryan has the authority  
3 to, and does, make decisions that concern the reviewing and counseling of defendants  
4 regarding employment decisions, including hiring and firing of Class Members.

5 184. Upon information and belief, in concert with others, Mr. Ryan has the authority  
6 to, and does, make decisions that concern employees' schedules, hours and standard benefit  
7 levels.

8 185. Upon information and belief, in concert with others, Mr. Ryan has the authority  
9 to, and does, make decisions that concern standard pay scales.

10 186. Upon information and belief, in concert with others, Mr. Ryan has the authority  
11 to, and does, make decisions that concern defendants' human resources policies, the resolution  
12 issues and disputes regarding policies and their applications, the counsel locations receive  
13 regarding human resources issues, and communications with employees about human  
14 resources issues and policies.

15 187. Upon information and belief, in concert with others, Mr. Ryan has the authority  
16 to, and does, make decisions that concern defendants' employment and human resources  
17 records, including the systems for keeping and maintaining those records.

18 188. Upon information and belief, in concert with others, Mr. Ryan has the authority  
19 to, and does, make decisions that concern training and education functions across SCI's  
20 network.

21 189. Upon information and belief, in concert with others, Mr. Ryan has the authority  
22 to, and does, make decisions that concern the type and scope of training employees must attend  
23 as well as any compensation they receive for attending training.

24 190. Upon information and belief, in concert with others, Mr. Ryan has the authority  
25 to, and does, make decisions that concern payroll and commission functions across SCI's  
26 network.

27 191. Upon information and belief, in concert with others, Mr. Ryan has the authority  
28 to, and does, make decisions that concern the system for keeping and maintaining employees'

1 payroll records, the timing and method with which payment is conveyed to employees, and the  
2 manner and method in which employees receive payroll information including their payroll  
3 checks.

4 192. Upon information and belief, in concert with others, Mr. Ryan has the authority  
5 to, and does, make decisions that concern benefit plans across SCI's network.

6 193. Upon information and belief, in concert with others, Mr. Ryan has the authority  
7 to, and does, make decisions that concern the type and scope of benefits available to  
8 employees, the method and manner in which information regarding those plans is conveyed to  
9 employees, and the system for keeping and maintaining records related to employees' benefits.

10 194. Because Mr. Ryan has authority to hire or fire employees, provide and direct  
11 support regarding human resources issues, including the hiring and firing of Class Members,  
12 and control the drafting and enforcement of the policies which govern the hiring and firing of  
13 employees, Mr. Ryan has the power to hire and fire employees.

14 195. Because Mr. Ryan has authority to establish work schedules and/or conditions of  
15 employment, provide and direct support regarding human resources issues, including work  
16 schedules and/or conditions of employment, control the drafting and enforcement of the  
17 policies which govern employees' schedules and/or conditions of employment, establish the  
18 type and scope of training employees receive, and administer employees' benefit programs,  
19 including standard benefit levels and the type and scope of benefits available to employees,  
20 Mr. Ryan supervises and controls employees' work schedules and/or conditions of  
21 employment.

22 196. Because Mr. Ryan has authority to establish employees' rate and method of  
23 payment and centrally control payroll functions, including standard pay scales, the provision of  
24 payroll information, and the timing of payment, Mr. Ryan determines the rate and method of  
25 employees' payment.

26 197. Because Mr. Ryan has authority with respect to defendants' centralized records,  
27 including a database regarding employees' employment records, and systems for keeping and  
28 maintaining payroll, benefits, and other employment-related records, Mr. Ryan maintains

1 employees' employment records.

2 198. Because Mr. Ryan provides day-to-day support regarding human resources  
3 issues, including employees' work schedules and/or conditions of employment, controls the  
4 drafting and enforcement of the policies which govern employees' schedules and/or conditions  
5 of employment, and administers employees' benefit programs, he is affirmatively, directly, and  
6 actively involved in operations of the defendants' business functions, particularly in regards to  
7 the employment of Class Members.

8 199. Because Mr. Ryan is actively involved in the creation of the illegal policies  
9 complained of in this case, actively advises defendants' agents on the enforcement of the  
10 illegal policies complained of in this case and actively ensures defendants' compliance or non-  
11 compliance with the state and common laws asserted in this action, he actively participates in  
12 the violations complained of in this action.

13 200. Based upon the foregoing, Mr. Ryan is liable to Class Members because of his  
14 active role in operating the business, his status as an employer, or according to state statutory  
15 and common law.

16 ***Curtis Briggs Is Liable to Class Members***

17 201. Defendant Curtis Briggs is President and/or Vice President of various entities  
18 owned by SCI, some of which are also related to the SCI Cooperative and/or the SCI Support  
19 Centers.

20 202. Mr. Briggs is Vice President for the General Partner of SCI Eastern; Vice  
21 President for the General Partner of SCI Houston; President and/or Vice President of the SCI  
22 Cooperative; President and/or Vice President of SCI Western.

23 203. Additionally, Mr. Briggs has executed employment contracts with various  
24 executives in his role as Vice President of SCI Executive Services, Inc.

25 204. Upon information and belief, Mr. Briggs's responsibilities include actively  
26 managing the entities for which he is an officer and the defendants' network.

27 205. Upon information and belief, in concert with others, Mr. Briggs has the authority  
28 to, and does, make decisions that concern the policies defendants adopt and for the

1 implementation of those policies.

2 206. Upon information and belief, in concert with others, Mr. Briggs has the authority  
3 to, and does, make decisions that concern defendants' operations, including functions related to  
4 employment, human resources, training, payroll, and benefits.

5 207. Upon information and belief, due in part to his numerous roles, Mr. Briggs is  
6 actively involved in the creation of the illegal policies complained of in this case, including,  
7 but not limited to, the On Call Pay Policy, Community Work Policy, Training Compensation  
8 Policy, Pre-Needs Appointment Policy, Meal Break Deduction Policy, Pre-Approval for  
9 Overtime Pay Policy, Unrecorded Work Time Policy, and the policy regarding the calculation  
10 of Class Members' overtime.

11 208. Upon information and belief, due in part to his numerous roles, Mr. Briggs  
12 actively advises defendants' agents on the enforcement of the illegal policies complained of in  
13 this case, including, but not limited to, the On Call Pay Policy, Community Work Policy,  
14 Training Compensation Policy, Pre-Needs Appointment Policy, Meal Break Deduction Policy,  
15 Pre-Approval for Overtime Pay Policy, Unrecorded Work Time Policy, and the policy  
16 regarding the calculation of Class Members' overtime.

17 209. Upon information and belief, due in part to his numerous roles, Mr. Briggs  
18 actively ensures defendants' compliance or non-compliance with the state and common laws  
19 asserted in this action.

20 210. Upon information and belief, in concert with others, Mr. Briggs has the authority  
21 to, and does, make decisions that concern the reviewing and counseling of defendants  
22 regarding employment decisions, including hiring and firing of Class Members.

23 211. Upon information and belief, in concert with others, Mr. Briggs has the authority  
24 to, and does, make decisions that concern the setting of employees' schedules, hours and  
25 standard benefit levels.

26 212. Upon information and belief, in concert with others, Mr. Briggs has the authority  
27 to, and does, make decisions that concern the setting of standard pay scales.

28 213. Upon information and belief, in concert with others, Mr. Briggs has the authority

1 to, and does, make decisions that concern defendants' human resources policies, issues and  
2 disputes regarding policies and their applications, the counsel locations receive regarding  
3 human resources issues, and communications with employees about human resources issues  
4 and policies.

5 214. Upon information and belief, in concert with others, Mr. Briggs has the authority  
6 to, and does, make decisions that concern defendants' employment and human resources  
7 records, including the systems for keeping and maintaining those records.

8 215. Upon information and belief, in concert with others, Mr. Briggs has the authority  
9 to, and does, make decisions that concern training and education functions across defendants'  
10 network.

11 216. Upon information and belief, in concert with others, Mr. Briggs has the authority  
12 to, and does, make decisions that concern the type and scope of training employees must attend  
13 as well as any compensation they receive for attending training.

14 217. Upon information and belief, in concert with others, Mr. Briggs has the authority  
15 to, and does, make decisions that concern payroll and commission functions across defendants'  
16 network.

17 218. Upon information and belief, in concert with others, Mr. Briggs has the authority  
18 to, and does, make decisions that concern the system for keeping and maintaining employees'  
19 payroll records, the timing and method with which payment is conveyed to employees, and the  
20 manner and method in which employees receive payroll information including their payroll  
21 checks.

22 219. Upon information and belief, in concert with others, Mr. Briggs has the authority  
23 to, and does, make decisions that concern benefit plans across defendants' network.

24 220. Upon information and belief, in concert with others, Mr. Briggs has the authority  
25 to, and does, make decisions that concern the type and scope of benefits available to  
26 employees, the method and manner in which information regarding those plans is conveyed to  
27 employees, and the system for keeping and maintaining records related to employees' benefits.

28 221. Because Mr. Briggs has authority to hire or fire employees, provide and direct



1 support regarding human resources issues, including the hiring and firing of employees, and  
2 control the drafting and enforcement of the policies which govern the hiring and firing of  
3 employees, Mr. Briggs has the power to hire and fire employees.

4 222. Because Mr. Briggs has authority to establish work schedules and/or conditions  
5 of employment, provide and direct support regarding human resources issues, including work  
6 schedules and/or conditions of employment, control the drafting and enforcement of the  
7 policies which govern employees' schedules and/or conditions of employment, establish the  
8 type and scope of training employees receive, and administer employees' benefit programs,  
9 including standard benefit levels and the type and scope of benefits available to employees,  
10 Mr. Briggs supervises and controls employees' work schedules and/or conditions of  
11 employment.

12 223. Because Mr. Briggs has authority to establish employees' rate and method of  
13 payment and centrally control payroll functions, including standard pay scales, the provision of  
14 payroll information, and the timing of payment, Mr. Briggs determines the rate and method of  
15 employees' payment.

16 224. Because Mr. Briggs has authority with respect to defendants' centralized records,  
17 including a database regarding employees' employment records, and systems for keeping and  
18 maintaining payroll, benefits, and other employment-related records, Mr. Briggs maintains  
19 employees' employment records.

20 225. Because Mr. Briggs provides support regarding human resources issues,  
21 including employees' work schedules and/or conditions of employment, controls the drafting  
22 and enforcement of the policies which govern employees' schedules and/or conditions of  
23 employment, and administers employees' benefit programs, he is affirmatively, directly, and  
24 actively involved in operations of defendants' business functions, particularly in regards to the  
25 employment of Class Members.

26 226. Because Mr. Briggs is actively involved in the creation of the illegal policies  
27 complained of in this case, actively advises defendants' agents on the enforcement of the  
28 illegal policies complained of in this case, and actively ensures defendants' compliance or non-



1 compliance with the state and common laws asserted in this action, Mr. Briggs actively  
2 participates in the violations complained of in this action.

3 227. Based upon the foregoing, Mr. Briggs is liable to Class Members because of his  
4 active role in operating the business, his status as an employer, or according to state statutory  
5 and common law.

#### 6 IV. CLASS ACTION ALLEGATIONS

7 228. The claims arising under the state wage laws set forth below are properly  
8 maintainable as a class action under Cal. Civ. Proc. § 382.

9 229. Class Members are those employees and former employees of defendants who  
10 were suffered or permitted to work by defendants and not paid their regular or statutorily  
11 required rate of pay for all hours worked.

12 230. The class size is believed to be over 10,000 employees, a significant percentage  
13 of whom are within California.

14 231. Common questions of law and fact predominate in this action because the claims  
15 of all Class Members are based on whether defendants' practice of not paying nonexempt  
16 employees their regular or statutorily required rate of pay for all hours worked violates  
17 California state law and the state laws of the various other states in which defendants do  
18 business.

19 232. Common questions of law and fact include, but are not limited to, the following:

- 20 a. Whether Class Members are entitled to payment for all of the time they  
21 worked for defendants.
- 22 b. Whether Class Members are entitled to payment at overtime rates for all of  
23 the time they worked for defendants in excess of 40 hours per week and/or in  
24 excess of 8 hours per day.
- 25 c. Whether defendants' employment policies violated defendants' legal  
26 obligation to pay Class Members for all of the time they worked for  
27 defendants.
- 28 d. Whether defendants' employment policies violated defendants' legal  
obligation to pay Class Members at overtime rates for all of the time they  
worked for defendants in excess of 40 hours per week and/or in excess of 8

1                   hours per day.

2           233. The named plaintiffs' claims are typical of, and concurrent to, the claims of Class  
3 Members, because they are similarly situated. The named plaintiffs and all Class Members  
4 were subjected to defendants' policies and practices of failing to compensate employees for  
5 overtime work.

6           234. The named plaintiffs will fairly and adequately represent and protect the interests  
7 of Class Members. The class counsel, Rosen, Bien & Galvan, LLP, Dolin, Thomas &  
8 Solomon LLP and Margolis Edelstein, are qualified and able to litigate Class Members'  
9 claims. The class counsel are experienced in employment litigation, and their attorneys are  
10 experienced in class action litigation, including class actions arising under federal and state  
11 wage and hour laws.

12           235. There are no known conflicts of interest between and among Class Members.

13           236. A class action is superior to other available means for the fair and efficient  
14 adjudication of this controversy. Individual joinder of all Class Members is not practicable,  
15 and questions of law and fact common to the Class predominate over any questions affecting  
16 only individual members of the Class. Each Class Member has been damaged and is entitled  
17 to recovery by reason of defendants' illegal policy and/or practice of permitting, suffering,  
18 and/or failing to pay employees their regular or statutorily required rate of pay for all hours  
19 worked. Class action treatment will allow those similarly situated persons to litigate their  
20 claims in the manner that is most efficient and economical for the parties and the judicial  
21 system.

22  
23  
24  
25 **V. FACTUAL BACKGROUND**

26           237. Class Members are those employees and former employees of defendants who  
27 were suffered or permitted to work by defendants and not paid their regular or statutorily  
28 required rate of pay for all hours worked.

1           238. Defendants' policy and/or practice was to not compensate Class Members their  
2 regular or statutorily required rate of pay for work defendants suffered or permitted Class  
3 Members to perform.

4           239. Defendants knew Class Members were supposed to receive such wages,  
5 however, defendants willfully failed to pay for all hours when Class Members worked.

6           240. Defendants' practice is to be deliberately indifferent to violations of the statutory  
7 overtime requirements.

8           241. The failure to pay overtime is willful.

9           242. Examples of defendants' policies and practices to deprive Class Members of  
10 their earned wages and wage premiums are set forth below:

11           a. Defendants implemented an "On Call Pay Policy." Under the policy,  
12 employees were suffered or permitted to perform work by handling calls and  
13 other work related issues after normal business hours, but defendants would  
not compensate employees for all work performed.

14           b. Defendants implemented a "Community Work Policy." Under the policy,  
15 defendants suffered or permitted their employees to perform "Community  
16 Work" so as to increase revenues for defendants. Defendants did not  
17 compensate the employees for such time spent in Community Work in  
furtherance of the employer's business under the "Community Work Policy."

18           c. Defendants' implemented a "Training Compensation Policy." Under the  
19 policy, defendants suffered or permitted their employees to take various types  
20 of training. Defendants did not pay for such training, despite suffering or  
permitting employees to perform such work.

21           d. Defendants implemented a "Pre-Needs Appointment Policy." Defendants  
22 suffered or permitted employees to meet with clients to discuss pre-need  
23 purchases. To the degree that such appointments were not considered part of  
the employees' schedule, the employees were suffered or permitted to  
24 continue the appointments, but were not paid for such time worked under the  
"Pre-Needs Appointment Policy." Defendants' management would  
25 sometimes attempt to justify this policy on the grounds that the employee  
would likely receive a commission if the client purchased a pre-needs  
26 product.

27           e. Defendants implemented a "Meal Break Deduction Policy." Under the  
28 policy, defendants did not pay for meal breaks. Defendants did, however,  
suffer and permit employees to perform work during such meal breaks, but

pursuant to defendants' "Meal Break Deduction Policy," time spent on meal "breaks" was still deducted from the employee's pay even when defendants suffered or permitted work to be performed during such "breaks."

f. Defendants implemented a "Pre-Approval for Overtime Pay Policy." Under this policy, defendants only permitted payments for overtime if the overtime was pre-approved. Defendants suffered or permitted employees to work overtime and therefore, employees were entitled to overtime payments. However, defendants refused to make the legally required payments because the time was not "pre-approved" as required under the "Pre-Approval for Overtime Pay Policy."

g. Defendants implemented an "Unrecorded Work Time Policy." Under this policy, defendants suffered or permitted employees to perform work, but directed that such work not be recorded. Defendants then refused to pay for the time worked under the "Unrecorded Work Time Policy" because, even though defendants knew such time had been worked, it had not been "recorded."

h. Defendants' policy was to not include all remuneration (such as bonuses and commissions) in the calculation of Class Members' overtime.

243. Defendants also failed to make, keep and preserve adequate and accurate records of the employment of Class Members concerning their wages, hours and other conditions of employment.

244. More specifically, the records kept by defendants failed to adequately and accurately disclose among other things, hours worked each work day, the total hours worked each work week and/or the total overtime compensation for each work week.

245. Defendants failed to pay full compensation to Class Members who are no longer employed by defendants promptly after those Class Members were discharged, laid off or resigned. In fact, defendants' failure to fully compensate those Class Members is continuing.

### **FIRST CAUSE OF ACTION**

#### **VIOLATION OF CALIFORNIA LABOR LAWS (by all plaintiffs against all defendants)**

246. The preceding paragraphs are incorporated as if fully set forth herein.

#### **Failure to Pay Overtime Compensation**

1        247. Defendants willfully violated their obligations under California law, including  
2 those under California Labor Code §1194, *et seq.*, by failing to pay Class Members the legal  
3 overtime compensation applicable to Class Members.

4        248. As a direct and proximate cause of defendants' actions, Class Members have  
5 suffered damages.

6        **Failure to Immediately Pay Wages Upon Discharge/Layoff/Resignation**

7        249. Defendants willfully violated their obligations under California law, including  
8 those under California Labor Code § 201, *et seq.*, by willfully failing to pay Class Members  
9 who have been discharged or laid off all wages earned and unpaid at the time of discharge or  
10 layoff.

11       250. Defendants willfully violated their obligations under California law, including  
12 those under California Labor Code § 202, *et seq.*, by willfully failing to pay Class Members  
13 who have resigned all wages earned and unpaid at the time of resignation, or within 72 hours  
14 thereafter.

15       251. Defendants did not pay Class Members who were discharged, were laid off or  
16 resigned their regular or statutorily required rate of pay for all hours worked, as required by  
17 California law. Defendants' failure to pay those amounts is ongoing.

18       252. As a direct and proximate cause of defendants' actions, Class Members have  
19 suffered damages.

20       253. Defendants are liable to Class Members for statutory penalties, pursuant to  
21 California Labor Code § 203, in the amounts set forth therein.

22       **Failure to Provide Required Meal and Rest Periods**

23       254. Defendants willfully violated their obligations under California law, including  
24 those under California Labor Code §§ 226.7 and 512, *et seq.*, by willfully failing to provide  
25 Class Members with legally required meal and rest periods.

26       255. Defendants repeatedly and regularly interrupted Class Members' meal and rest  
27 periods and/or required Class Members to forego their meal and rest periods.

28       256. Defendants failed to compensate Class Members for missed meal and rest breaks.

257. As a direct and proximate cause of defendants' actions, Class Members have suffered damages.

**Failure to Furnish Timely and Accurate Wage Statements**

258. Defendants willfully violated their obligations under California law, including those under California Labor Code §§ 226(a) and 226.3, *et seq.*, by willfully failing to provide Class Members with timely and accurate wage statements as required by California law.

259. As a direct and proximate cause of defendants' actions, Class Members have suffered damages.

260. Wherefore, Class Members request relief as described below.

**SECOND CAUSE OF ACTION**

**STATE WAGE AND HOUR LAWS (by all plaintiffs against all defendants)**

261. The preceding paragraphs are incorporated as if fully set forth herein.

262. Defendants willfully violated their obligations to properly compensate Class Members under the wage laws of the states in which defendants do business including:

- a. Alaska Stat. § 23.10.050, *et seq.*;
- b. Arizona Rev. Stat. § 23-201, *et seq.*;
- c. Arkansas Code § 11-4-201, *et seq.*;
- d. Colorado Rev. Stat. § 8-6-101, *et seq.*; Colorado Code Regs. § 1103-1, *et seq.*;
- e. Connecticut Gen. Stat. § 31-58, *et seq.*;
- f. D.C. Code § 32-1001, *et seq.*;
- g. 820 Illinois Comp. Stat. 105/1, *et seq.*; 820 Illinois Comp. Stat. 105/12(a); 820 Illinois Comp. Stat. 115/1, *et seq.*;
- h. Indiana Code § 22-2-2-1, *et seq.*; Indiana Code § 22-2-2-4, *et seq.*; Indiana Code § 22-2-5-1, *et seq.*; Indiana Code § 22-2-9-2, *et seq.*;
- i. Kansas Stat. § 44-1201, *et seq.*;
- j. Kentucky Rev. Stat. § 337.010, *et seq.*;
- k. Louisiana Rev. Stat. § 23:631, *et seq.*;



- 1 l. Maine Rev. Stat. Tit. 26 § 665 *et seq.*;
- 2 m. Maryland Code, Lab. & Empl. § 3-401, *et seq.*;
- 3 n. Massachusetts Gen. Laws Ch. 151, § 1, *et seq.*; Massachusetts Gen. Laws
- 4 Ch. 149, § 148, *et seq.*; Massachusetts Gen. Laws Ch. 149, § 100, *et seq.*;
- 5 o. Michigan Comp. Laws § 408.381, *et seq.*;
- 6 p. Minnesota Stat. § 177.21, *et seq.*; Minnesota Stat. § 181.13, *et seq.*;
- 7 q. Missouri Stat. § 290.500 *et seq.*;
- 8 r. Montana Code § 39-3-401, *et seq.*;
- 9 s. Nevada Rev. Stat. § 608.005, *et seq.*;
- 10 t. New Hampshire Rev. Stat. § 279:1, *et seq.*;
- 11 u. New Jersey Stat. § 34.11-56a, *et seq.*;
- 12 v. New Mexico Stat. § 50-4-1, *et seq.*;
- 13 w. New York Lab. Law § 160, *et seq.*;
- 14 x. North Carolina Gen. Stat. § 95-25.1, *et seq.*;
- 15 y. Ohio Rev. Code § 4111.01, *et seq.*;
- 16 z. Oregon Rev. Stat. § 653.005, *et seq.*;
- 17 aa. 43 Pennsylvania Stat. § 333.101, *et seq.*; 43 Pennsylvania Stat. § 206.3, *et*
- 18 *seq.*;
- 19 bb. 29 Laws of Puerto Rico §250, *et seq.*;
- 20 cc. Rhode Island Gen. Laws § 28-12-1, *et seq.*;
- 21 dd. South Carolina Code § 41-10-10, *et seq.*;
- 22 ee. Washington Rev. Code § 49.46.005, *et seq.*;
- 23 ff. West Virginia Code § 21-5C-1, *et seq.*;
- 24 gg. Wisconsin Stat. § 104.001, *et seq.*

25  
26  
27 263. As a direct and proximate cause of defendants' violations of these statutes, Class  
28 Members have suffered damages.

1           264. Wherefore, Class Members request relief as described below.

2                                   **THIRD CAUSE OF ACTION**

3           **UNJUST ENRICHMENT/RESTITUTION (by all plaintiffs against all defendants)**

4           265. The preceding paragraphs are incorporated as if fully set forth herein.

5           266. Defendants have received financial gain at the expense of Class Members.

6           267. Defendants have received that financial gain under such circumstances that, in  
7 equity and good conscience, defendants ought not to be allowed to profit at the expense of  
8 Class Members.

9           268. Defendants' willful failure to pay overtime wages for work performed for  
10 defendants has unjustly enriched defendants to the detriment of Class Members. As a result of  
11 this conduct, the common laws and state laws of Alabama, Alaska, Arizona, Arkansas,  
12 California, Colorado, Connecticut, District of Columbia, Florida, Georgia, Hawaii, Idaho,  
13 Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts,  
14 Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire,  
15 New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon,  
16 Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Tennessee, Texas, Utah, Virginia,  
17 Washington, West Virginia, and Wisconsin, imply a contract obligating defendants to make  
18 restitution to Class Members, in the amount by which, in equity and good conscience,  
19 defendants have been unjustly enriched.

20           269. As a direct and proximate cause of defendants' actions, Class Members have  
21 suffered damages.

22           270. Wherefore, Class Members request relief as described below.

23                                   **FOURTH CAUSE OF ACTION**

24           **CONVERSION (by all plaintiffs against all defendants)**

25           271. The preceding paragraphs are incorporated as if fully set forth herein.

26           272. At all relevant times, defendants had and continued to have a legal obligation to  
27 pay Class Members all earnings and overtime due. The wages belong to Class Members as of  
28 the time the labor and services were provided to defendants and, accordingly, the wages for

1 services performed are the property of the Class Members.

2 273. In refusing to pay wages and overtime to Class Members, defendants knowingly,  
3 unlawfully and intentionally took, appropriated and converted the wages and overtime earned  
4 by Class Members for defendants' own use, purpose and benefit. At the time the conversion  
5 took place, Class Members were entitled to immediate possession of the amount of wages and  
6 overtime earned. As a result, Class Members have been denied the use and enjoyment of their  
7 property and have been otherwise damaged in an amount to be proven at trial. This conversion  
8 was willful, oppressive, malicious, and fraudulent and/or done with conscious disregard of the  
9 rights of the Class Members. This conversion was concealed from Class Members.

10 274. Defendants willfully violated their obligations under the common laws and the  
11 state laws of Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, District  
12 of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky,  
13 Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri,  
14 Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North  
15 Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina,  
16 Tennessee, Texas, Utah, Virginia, Washington, West Virginia, and Wisconsin and are liable to  
17 Class Members.

18 275. As a result of defendants' actions, Class Members were damaged and are entitled  
19 to all funds converted by defendants with interest thereon, all profits resulting from such  
20 conversion, and punitive or exemplary damages.

21 276. Wherefore, Class Members request relief as described below.

22 **FIFTH CAUSE OF ACTION**

23 **FRAUD AND DECEIT (by all plaintiffs against all defendants)**

24 277. The preceding paragraphs are incorporated as if fully set forth herein.

25 278. Defendants, through their corporate publications and through statements of their  
26 agents, represented that wages would be paid legally and in accordance with defendants'  
27 obligations pursuant to applicable federal and state laws. For example, defendants falsely  
28 stated in their policy manuals that "[o]vertime is defined as any hours worked in excess of 40

1 hours per week as mandated by federal law. ... Nonexempt employees shall be paid at a rate of  
2 one and one-half (1) times their hourly rate for all overtime hours worked."

3 279. Defendants, however, at all times intended to violate applicable federal and state  
4 laws by failing to pay Class Members their regular or statutorily required rate of pay for all  
5 hours worked.

6 280. These misrepresentations were material to the terms of Class Members'  
7 employment contracts, and Class Members relied on the misrepresentations in agreeing to  
8 accept and continue employment with defendants. This reliance was reasonable, as Class  
9 Members had every right to believe that defendants would abide by their obligations pursuant  
10 to applicable federal and state law.

11 281. Defendants willfully violated their obligations by committing fraud against Class  
12 Members under the common laws and the state laws of Alabama, Alaska, Arizona, Arkansas,  
13 California, Colorado, Connecticut, District of Columbia, Florida, Georgia, Hawaii, Idaho,  
14 Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts,  
15 Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire,  
16 New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon,  
17 Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Tennessee, Texas, Utah, Virginia,  
18 Washington, West Virginia, and Wisconsin and are liable to Class Members.

19 282. As a direct and proximate cause of the fraud committed by defendants, Class  
20 Members did not receive the statutorily mandated wages for overtime and suffered damages.

21 283. Defendants acted maliciously when they committed the wrongful acts which  
22 constitute this cause of action such that it warrants the imposition of punitive and exemplary  
23 damages.

24 284. Wherefore, Class Members request relief as described below.

25 **SIXTH CAUSE OF ACTION**

26 **MISREPRESENTATION (by all plaintiffs against all defendants)**

27 285. The preceding paragraphs are incorporated as if fully set forth herein.

28

1       286. In particular, Class Members incorporate and refer to paragraphs 278 through  
2 280 above, regarding the material misrepresentations made by defendants.

3       287. When defendants hired Class Members, they represented to Class Members that  
4 they would be fully compensated for all services performed, as more fully set forth above.

5       288. There was no reasonable basis for defendants to believe these representations  
6 because defendants had a continuing practice and policy of failing to pay their employees their  
7 regular or statutorily required rate of pay for all hours worked.

8       289. Class Members relied upon defendants' representations by performing work and  
9 services for defendants. This reliance was reasonable, as Class Members had every right to  
10 believe that defendants would abide by their obligations pursuant to applicable federal and  
11 state law.

12       290. Defendants willfully violated their obligations under the common laws and the  
13 state laws of Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, District  
14 of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky,  
15 Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri,  
16 Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North  
17 Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina,  
18 Tennessee, Texas, Utah, Virginia, Washington, West Virginia, and Wisconsin by  
19 misrepresenting to Class Members that they would be fully compensated for all services  
20 performed and are liable to Class Members.

21       291. As a result of their reliance upon defendants' misrepresentations, Class Members  
22 suffered damages because they were not appropriately compensated with the regular or  
23 statutorily required rate of pay for all hours worked.

24       292. As a direct and proximate result of defendants' negligent misrepresentation,  
25 Class Members suffered damages.

26       293. Wherefore, Class Members request relief as described below.  
27  
28

**SEVENTH CAUSE OF ACTION**

**BREACH OF CONTRACT (by all plaintiffs against all defendants)**

294. The preceding paragraphs are incorporated as if fully set forth herein.

295. By entering into an employment relationship, defendants and each Class Member entered into a contract for employment.

296. Each such contract included an implied or express term that defendants agreed to fulfill all of their obligations pursuant to applicable state and federal law.

297. Defendants willfully breached the implied contract term by failing to pay Class Members for all of the time Class Members worked and by failing to pay Class Members their regular or statutorily required rate of pay for all hours worked.

298. Defendants willfully violated their obligations under the common laws and the state laws of Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, and Wisconsin and are liable to Class Members.

299. As a direct and proximate cause of defendants' breach of their contracts with Class Members, Class Members have suffered damages.

300. Wherefore, Class Members request relief as described below.

**EIGHTH CAUSE OF ACTION**

**BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING**

**(by all plaintiffs against all defendants)**

301. The preceding paragraphs are incorporated as if fully set forth herein.

302. The unwritten contract for at-will employment between Class Members and defendants contained an implied covenant of good faith and fair dealing, which obligated defendants to perform the terms and conditions of the employment contract fairly and in good



1 faith and to refrain from doing any act that would violate any state or federal law governing the  
2 employment relationship or any act that would deprive Class Members of the benefits of the  
3 contract.

4 303. Defendants breached the implied covenant of good faith and fair dealing by  
5 failing to pay Class Members the wages and overtime that was due to Class Members.

6 304. Defendants willfully violated their obligations under the common laws and the  
7 state laws of Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, District  
8 of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky,  
9 Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri,  
10 Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North  
11 Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina,  
12 Tennessee, Texas, Utah, Virginia, Washington, West Virginia, and Wisconsin and are liable to  
13 Class Members.

14 305. As a direct and proximate cause of defendants' breach of the implied covenant of  
15 good faith and fair dealing, Class Members have suffered damages.

16 306. Wherefore, Class Members request relief as described below.

17 **NINTH CAUSE OF ACTION**

18 **QUANTUM MERUIT (by all plaintiffs against all defendants)**

19 307. The preceding paragraphs are incorporated as if fully set forth herein.

20 308. Defendants willfully violated their obligations by failing to pay Class Members  
21 for the reasonable value of the services performed by Class Members for defendants under the  
22 common laws and the state laws of Alabama, Alaska, Arizona, Arkansas, California, Colorado,  
23 Connecticut, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa,  
24 Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota,  
25 Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New  
26 Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico,  
27 Rhode Island, South Carolina, Tennessee, Texas, Utah, Virginia, Washington, West Virginia,  
28 and Wisconsin and are liable to Class Members under quantum meruit.

1        309. As a direct and proximate cause of defendants' failure to pay Class Members for  
2 the reasonable value of services performed by Class Members for defendants, Class Members  
3 suffered damages.

4        310. Wherefore, Class Members request relief as described below.

5                                    **TENTH CAUSE OF ACTION**

6        **UNLAWFUL BUSINESS PRACTICES (by all plaintiffs against all defendants)**

7        311. The preceding paragraphs are incorporated as if fully set forth herein.

8        312. Defendants' failure to pay Class Members for all time worked constitutes unfair  
9 competition and unlawful, unfair, and fraudulent business acts and practices in violation of  
10 California Business and Professional Code § 17200, *et seq.*

11        313. The conduct of defendants in failing to pay Class Members for all time worked  
12 constitutes and was intended to constitute unfair competition and unlawful unfair and  
13 fraudulent business acts and practices within the meaning of California Business and  
14 Professional Code § 17200, *et seq.*

15        314. As a result of defendants' violations of California Business and Professional  
16 Code § 17200, *et seq.*, defendants have unjustly enriched themselves at the expense of Class  
17 Members.

18        315. To prevent their unjust enrichment, defendants should be required, pursuant to  
19 California Business and Professional Code §§ 17203 and 17204, to disgorge their illegal gains  
20 for purpose of making full restitution to all injured Class Members. Defendants should also be  
21 permanently enjoined from continuing their violations of California Business and Professional  
22 Code § 17200, *et seq.*

23        316. Defendants willfully violated their obligations under the California Unfair  
24 Competition Law (Bus. & Prof. Code § 17200, *et seq.*) and are liable to Class Members.

25        317. Wherefore, Class Members request relief as described below.

26                                    **PRAYER FOR RELIEF**

27        **WHEREFORE**, Class Members demand judgment against defendants in their favor  
28 and that they be given the following relief:

- (a) an order preliminarily and permanently restraining defendants from engaging in the aforementioned pay violations;
- (b) an award of the value of Class Members' unpaid wages;
- (c) liquidated, compensatory, consequential and punitive damages;
- (d) an award of reasonable attorneys' fees, expenses, expert fees and costs incurred in vindicating Class Members' rights;
- (e) an award of pre- and post-judgment interest; and
- (f) such other and further legal or equitable relief as this Court deems to be just and appropriate.

### JURY DEMAND

Class Members demand a jury to hear and decide all issues of fact.

Respectfully Submitted,

ROSEN, BIEN & GALVAN, LLP

By: 

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